

Application No.: 10/691,470
Filing Date: October 22, 2003

REMARKS

The following remarks are responsive to the August 13, 2009 Office Action. Applicant respectfully requests Examiner to reconsider the claims in view of the amendments to the claims and the following remarks.

Comments on December 1, 2009 Interview

Applicant thanks Examiner Singh for extending the courtesy of conducting an interview on December 1, 2009 with Applicant's representatives, Rabinder Narula and Linus Byström, to discuss the pending Office Action. Applicant submits that the comments herein are in accordance with the discussion during the interview.

Summary of the Amendments

Claim 39 has been amended to overcome Examiner's rejections and objections in the Office Action, and is in accordance with Examiner's comments from the December 1, 2009 interview. These claims have been amended to more distinctly claim the subject matter Applicant regards as the invention. Support for the amendments is found in the specification, the drawings, and in the claims as originally filed. No new matter has been added as a result of these amendments. Applicant respectfully submits that the present application is in condition for allowance.

Summary of the Office Action

In the Office Action, Claims 39-57 and 62 stand rejected. Claims 39, 40, 43, 44, 48, 56, 57 and 62 are rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,520,540 (Nardi). Claims 39, 40, 43, 44, 48, 56, 57 and 62 are rejected under 35 U.S.C. § 102(e) as anticipated by PCT Publication No. WO 99/29256 (Morgan). Claims 41, 42, 45-47 and 49-52 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Morgan in view of U.S. Patent No. 5,074,790 (Bauer). Claims 53-55 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Morgan in view of U.S. Patent No. 3,466,748 (Christensen). Claims 41, 42, 45-47 and 49-52 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Nardi in view of Bauer.

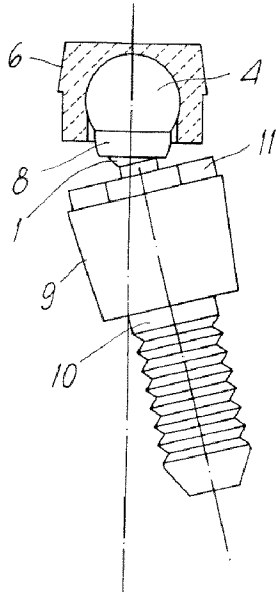
Claims 53-55 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Nardi in view of Christensen. Claim 39 is objected to because of informalities.

Claim Objections

Applicant has amended Claim 39 to address the informalities raised by Examiner in the Office Action.

Rejections under 35 U.S.C. § 102(b)

Claims 39, 40, 43, 44, 48, 56, 57 and 62 are rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,520,540 (Nardi). Nardi discloses a two piece ball and socket structure. *See* Nardi, 3:15-33; Figs. 5, 6. Although this two-piece ball 1 and socket 4 structure allows for the socket 4 of the device to adjust to a desired orientation angle, the interaction between the ball and socket cannot be considered bending. Thus, this two piece ball and socket structure cannot be considered flexible as previously recited in Claim 39.



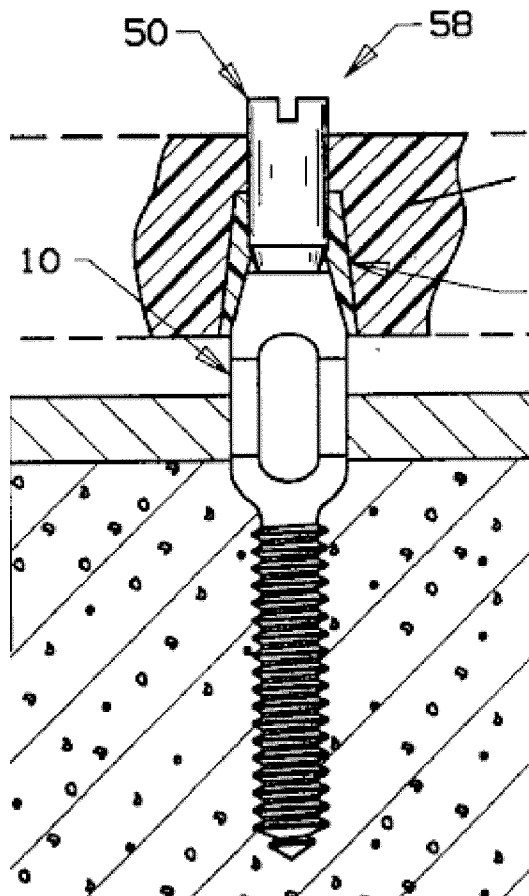
Nardi - Fig. 5

However, to advance prosecution, Claim 39 now recites “wherein the abutment, bendable neck segment, body segment and torque engagement segment form a monolithic structure and the bendable neck segment is sufficiently bendable such that while the body segment is positioned within a patient’s jawbone the bendable neck segment can be bent to adjust the angle of the

abutment” (among other claim elements). Applicant submits that Nardi does not disclose these claim limitations—that is, Nardi is neither monolithic nor bendable. That is, while the socket can pivot about the ball, there is no structure in Nardi that is monolithic and bendable as recited in amended Claim 39

Furthermore, a person of ordinary skill in the art would not modify Nardi to be bendable. This is neither obvious nor desirable due to the ball and socket structure. That is, if the “neck” section between the ball section (element 1) and the hexagon nut section (element 11) was modified to be bendable, the resulting bend of the ball section would interfere with the fit and swivel of the mating socket (element 8) making it unsuitable for its intended purpose. *See* Nardi, Figs. 5, 6. Additionally, if this “neck” section in Nardi was bendable, the result would be two bends, one attributed to the “neck”, the other to the ball and socket joint. Such a construction would hamper the dentist’s efforts to precisely angle the abutment making it unsuitable for its intended purpose. Moreover, due to the nature of a ball and socket coupling, Nardi must be two pieces. Thus, it is not obvious to a person of ordinary skill in the art to modify Nardi to a monolithic structure or to modify the existing structure to be bendable as recited in amended Claim 39.

Claims 39, 40, 43, 44, 48, 56, 57 and 62 are rejected under 35 U.S.C. § 102(e) as anticipated by PCT Publication No. WO 99/29256 (Morgan). Morgan is also not bendable as recited in amended Claim 39. Examiner cites Morgan Fig. 6 for the claim limitation “flexible neck segment” (now amended to “bendable neck segment”). Office Action 4. However, Morgan makes no disclosure relating to bending or flexing any portion of the described invention. Morgan likewise makes no suggestion that the described invention is bendable or flexible in any manner. Indeed, Morgan Fig. 6 shows a straight device, possessing no bends, curves or flex. Applicant submits that Morgan does not disclose the claim limitation of a bendable neck segment. that is “sufficiently bendable such that while the body segment is positioned with in a patient’s jawbone the bendable neck segment can be bent to adjust the angle of the abutment.”



Similarly, a person of ordinary skill in the art would not modify Morgan to be bendable. The implant portion is implanted into the cortical bone, and the depth of the implantation is such that the “spaced flats” (elements 18) is within the gumline (element 4). *See* Morgan, Fig. 6. Based on this implantation instruction, there is no conceivable bendable section. Any bendable section cannot be below the “spaced flats” section as that would be within the cortical bone. *See* Morgan, Fig. 6. Likewise, it is not clear how any bendable section could be above the “spaced flats” section, as that section rapidly tapers and includes a threaded bore. *See* Morgan Fig. 1. Similarly, the pin (element 50) cannot have any bendable sections as it is designed to be screwed into the implant and is designed to be straight to facilitate the accurate placement of the temporary prosthesis. *See* Morgan, Figs. 4, 5. Additionally, Morgan is a three piece device (implant, coping, pin), and it would not be obvious for a person of skill in the art to modify Morgan to a monolithic structure, since that would defeat the facilitating nature of this temporary implant achieved by having separate pieces.

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The remaining cited references Christensen and Bauer do not disclose, teach or suggest the above noted features of amended Claim 39. Therefore, for at least these reasons, Applicant respectfully requests that Examiner withdraw the rejection of Claim 39 and dependent claims 40, 43, 44, 48, 56, 57 and 62 have been overcome.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

CONCLUSION

Applicant respectfully submits that the above rejections and objections have been overcome and that the present application is now in condition for allowance. Therefore, Applicant respectfully requests that Examiner indicate that Claims 39-57 and 62 are now acceptable and allowed. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

Applicant respectfully submits that the claims are in condition for allowance in view of the above remarks. Any remarks in support of patentability of one claim, however, should not be imputed to any other claim, even if similar terminology is used. Additionally, any remarks referring to only a portion of a claim should not be understood to base patentability on that portion; rather, patentability must rest on each claim taken as a whole. Applicant respectfully traverse each of Examiner's rejections and each of Examiner's assertions regarding what the prior

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art shows or teaches, even if not expressly discussed herein. Applicant also has not presented arguments concerning whether the applied references can be properly combined in view of, among other things, the clearly missing elements noted above, and Applicant reserves the right to later contest whether a proper reason exists to combine these references and to submit indicia of the non-obviousness of the claimed management system.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claim and drawings in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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